

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JERRY HAUSEN,

Plaintiff,

v.

IWS, INC., *et al.*,

Defendants.

Case No. 2013 CV 6051

MOTION FOR INSTRUCTIONS

Plaintiff Jerry Hausen and Opt-In Plaintiff Anthony Navarra seek instructions from the Court, pursuant to Local Rule 54.3(g), as to how the parties should proceed with respect to the briefing schedule [Doc. 57] on Plaintiffs' Corrected Motion for Entry of Judgment [Doc. 54 & 56]. Plaintiffs' motion is based on the following:

1. Plaintiffs filed their Corrected Motion for Entry of Judgment requesting the entry of judgment in their favor (because they accepted Defendants' Rule 68 offer of judgment) and an award of attorney fees and costs.
2. Under the Court's briefing schedule: (i) Defendants' response was due on August 27, 2014; and (ii) Plaintiffs' reply is due on September 10, 2014.
3. Defendants contend in their Response [Doc. 58] that Plaintiffs' counsel failed to satisfy Local Rule 54.3, which requires parties, under certain circumstances, to confer and attempt to agree on the amount of attorney fees that should be awarded before the filing of a fee motion.

4. Plaintiffs' counsel did not believe that Local Rule 54.3¹ was applicable here, but had no objection to following its procedures.

5. On August 29, 2014, counsel for Plaintiffs, Charles A. Valente, wrote to Defendants' attorney, Joshua B. Rosenzweig, and offered to meet and confer with regard to the requested attorney fees. In that letter, Mr. Valente wrote:

Please let me know about your willingness to meet and confer as soon as practicable and I will contact the Court about suspending the briefing while we meet and confer or, if you prefer, we can withdraw the issue of the amount of fees for later determination. I am sure that Judge Gottschall would appreciate it if we were able to simplify the dispute before her.

A copy of this letter is attached hereto as Exhibit A.

6. On September 3, 2014, Mr. Rosenzweig responded by letter stating that he would not confer unless the Court ordered such a conference. A copy of this letter is attached hereto as Exhibit B.

7. Plaintiffs wish to proceed in a manner that this Court deems most appropriate here.

8. Under the current briefing schedule, Plaintiffs' reply brief is due on September 10, 2014 – which is less than one week away.

9. Accordingly, Plaintiffs seek instruction from this Court on whether the parties should meet and confer under Local Rule 54.3. If the Court chooses not to have the parties meet and confer under Local Rule 54.3, then Plaintiffs request an additional seven (7) days in which to file their reply brief.

¹ Local Rule 54.3 provides that if the Court has not entered an order with respect to the filing of a fee motion, "then after such filing, the court may order the parties to comply with the procedure set out in this rule as a post-filing rather than as a pre-filing procedure." LR54.3(b).

WHEREFORE, Plaintiffs request that this Court enter an order instructing them as to whether the Court would prefer either: (i) that the parties meet and confer regarding the requested attorney fees, or (ii) that the Plaintiffs simply file their reply brief. In the event that the Court does not require a conference on the attorney fees, Plaintiffs respectfully request an additional seven (7) days, from the date of the Court's instructions, in which to file their reply brief in support of their motion for entry of judgment.

Dated: September 5, 2014

JERRY HAUSEN AND ANTHONY NAVARRA

By: /s/ William D. Nagel

COUNSEL FOR PLAINTIFFS,

Charles A. Valente

Heather Kuhn O'Toole

William D. Nagel

KRASNOW SAUNDERS KAPLAN & BENINATI, LLP

500 North Dearborn Street, Suite 200

Chicago, Illinois 60654

(312) 755-5700

CERTIFICATE OF SERVICE

I hereby certify that on September 5, 2014, I caused a copy of the foregoing **Motion for Instructions** to be electronically filed with the Clerk of the Court for the United States District Court, Northern District of Illinois, using the CM/ECF system, which will send notification of such filing to all counsel of record by email.

/s/ William D. Nagel



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August 29, 2014

Joshua B. Rosenzweig
CDH LAW GROUP, LLC
2000 W. Galena Blvd., Suite 210
Aurora, IL 60506

Re: Hausen v. IWS Inc., et al., Case No. 2013 CV 6051

Dear Mr. Rosenzweig:

In your Response to Plaintiffs' Corrected Motion for Entry of Judgment which you filed Wednesday, you objected to Plaintiffs' request for attorney's fees because Plaintiffs had not complied with Local Rule 54.3. Frankly, I did not believe that Rule 54.3 was applicable here, but I would welcome the opportunity to meet and confer with you along the lines specified in the rule.

Please let me know about your willingness to meet and confer as soon as practicable and I will contact the Court about suspending the briefing while we meet and confer or, if you prefer, we can withdraw the issue of the amount of fees for later determination. I am sure that Judge Gottschall would appreciate it if we were able to simplify the dispute before her.

I look forward to hearing from you.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'C. Valente', written over the words 'Very truly yours,'.

Charles A. Valente

CDH LAW GROUP, LLC

ATTORNEYS AT LAW

September 3, 2014

Via Email to cvalente@krasnowsaunders.com
& Via First-Class Mail

Attorney Charles A. Valente
Krasnow Saunders Kaplan & Beninati, LLP
500 N. Dearborn St.
Second Floor
Chicago, IL 60654

Re: Jerry Hausen, et al., v. IWS, Inc., et al.
U.S. District Court Case No. 13 CV 6051

Dear Attorney Valente:

I am in receipt of your letter from last Friday, August 29, 2014, in which you offered to conduct a conference concerning your firm's fee petition pursuant to Local Rule 54.3, even though you think the Rule does not apply to the instant matter.

I am not inclined to agree to a suspension of the briefing schedule on your clients' Motion for Entry of Judgment ("Motion"). Your firm chose not to comply with the Rule, and I do not believe that you can cure that failure by offering to meet after your request for fees has been filed and my clients' response thereto has been filed as well.

If Judge Gottschall orders that the parties must confer prior to ruling on the Motion, then my clients and I will abide by the Court's order.

Sincerely,

CDH LAW GROUP, LLC


Joshua B. Rosenzweig

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